

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TOOLGAL USA CORP.,)	
)	
Plaintiff,)	
)	
v.)	No. 13 C 4802
)	
DIAMOND BLADE WAREHOUSE, INC.,)	
et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Toolgal USA Corp. ("Toolgal") has sued Diamond Blade Warehouse, Inc. ("Diamond Blade") and its Chairman and Chief Operating Officer Alan Mansfield ("Mansfield"), invoking federal jurisdiction on diversity of citizenship grounds. This memorandum order is issued sua sponte because of one problematic aspect of Toolgal's jurisdictional allegations.

Complaint ¶2 identifies Mansfield as "a resident of the State of Illinois" (emphasis added), even though the relevant fact for diversity purposes is--by definition--his state of citizenship. Even though one's state of citizenship most often coincides with his or her residence, that is not always the case--and our Court of Appeals has said and repeated unequivocally that where residence rather than citizenship is alleged the District Court must dismiss the action.

This Court has always been loath to inflict such a Draconian result on a defect that is most likely curable. Hence Toolgal's counsel are granted leave to file an appropriate amendment to

Complaint ¶2 (not a full-bore Amended Complaint) on or before July 19, 2013 to cure the flawed allegation. If that is not timely done, this Court will be constrained to follow the Court of Appeals' directive and dismiss this action for lack of subject matter jurisdiction. Meanwhile this Court, on the premise that the defect is indeed curable, is contemporaneously issuing its customary initial scheduling order.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style with a large initial 'M'.

Milton I. Shadur
Senior United States District Judge

Date: July 8, 2013